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From:

Sent: Friday, May 14, 2010 4:17:01 PM

To:

Cc:

Subject: RE: Request for Informal Advice (Chose of Action and Notice of Seizure)

This is our response to your request for informal advice regarding a Notice of Seizure and a "chose in action."

While a "chose in action" is property or a right to property upon which the Service can levy pursuant to section 6331(a), it is not the type of property that should be listed on a Notice of Seizure. Although a seizure is a form of a levy, not all levies are seizures. Seizures are limited to tangible property, i.e. physical items that you can touch and that must be reduced to possession and control (actual or constructive) as described in *Freeman v. Mayer*, 152 F. Supp. 383 (D.N.J. 1957). Intangible property, on the other hand, cannot be generally viewed, touched, or physically seized. IRM 5.17.3.5.3.2 generally describes the differences between tangible and intangible property, and the difference between levy of intangible property and seizure of tangible property. A chose of action is the epitome of intangible property, i.e. property that lacks a physical representation, because it is only the right to bring suit for payment of a debt. A chose of action may be levied upon as described in IRM 5.17.3.9.5, but as intangible property that lacks physical form, is not the type of property that can be seized. Accordingly, a Notice of Seizure would not be used to describe a chose in action, and it should not be listed on such a form.